

**DRAFT**

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**ENERGY DIVISION**

**RESOLUTION E-3931  
MAY 26, 2005**

**R E S O L U T I O N**

**Resolution E-3931. Pacific Gas and Electric Company [PG&E] requests confirmation of DeWitt F. Bowman and John E. Hulse to the Committees of its Nuclear Decommissioning Trust Funds.**

**Request approved with modifications.**

**By Advice Letter 2651-E filed on April 15, 2005.**

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**SUMMARY**

**PG&E's nomination of Bowman and Hulse is approved.**

This Resolution confirms the reappointment of DeWitt F. Bowman [Bowman] and John E. Hulse [Hulse] to serve on PG&E's Nuclear Decommissioning Master Trust Committees [Committees] for an additional *four* and *five-year* terms starting on May 2, 2005 respectively.

**BACKGROUND**

**The Commission opted for externally managed trust funds to accrue nuclear decommissioning trust funds.**

In Order Instituting Investigation 86, the Commission conducted an investigation into methods of financing the cost of decommissioning California's investor owned nuclear power plants. In Decision [D.] 87-05-062, the Commission adopted externally managed trusts as the vehicle for accruing decommissioning funds. In that Decision the Commission also established guidelines for the trust agreements.

**The Committee's non-affiliated members must be confirmed by the Commission.**

On November 25, 1987, PG&E's two Nuclear Facilities Decommissioning Master Trust Agreements [Trusts] were approved by the Commission in Resolution E-3048. Two trust agreements were required, one for the decommissioning funds

which qualify for an income tax deduction under Section 468A of the Internal Revenue Code [Qualified Trust] and one for the remaining funds [Non-Qualified Trust].

The Committee managing the Trusts consists of *five* members nominated by PG&E's management and confirmed by its board. No more than two members of the Committee may be affiliated with PG&E. The three members from outside of the company are to be confirmed by the Commission and serve terms of five years. The Committee is responsible for investing the Trusts' assets, directing and managing the Trusts, including the appointment of trustees and investment managers and the execution of whatever contract, agreements, or other documents it deems necessary in the course of its duties.

By this filing, PG&E is requesting Commission reconfirmation of two Committee members not affiliated with PG&E, in accordance with the provisions of the Trusts. The re-nomination of Messrs. Bowman and Hulse to serve for another five year term has been confirmed by PG&E's Board of Directors. The Commission has previously approved these individuals' appointments when they were nominated in separate occasions.

## **NOTICE**

PG&E mailed copies of AL 2651-E to parties listed in the Advice Letter in accordance with General Order 96A. Notice of the Advice Letter appeared on the Commission's Daily Calendar.

## **PROTESTS**

Advice Letter 2651-E was not protested.

## **DISCUSSION**

**This will be Bowman's and Hulse's third nomination.**

Bowman has served two five-year terms starting on May 2, 1994 and 1999.

Hulse has previously served two five-year terms beginning on May 2, 1995 and 2000.

By this Advice Letter, PG&E is renominating Bowman and Hulse to continue serving as nonaffiliated Committee members of the Trusts for additional terms of five years. In the case of Bowman, PG&E is requesting a retroactive start date, May 2004, which is discussed further below. Bowman and Hulse have indicated their willingness to serve on the Committees if confirmed by the Commission as shown in their Declarations dated April 12 and 14, 2005, attached to the Advice Letter. They have stated that they have reviewed the requirements and restrictions on the Committee members not affiliated with PG&E, as contained in the trust agreement for each of the funds.

**Bowman and Hulse have outstanding financial management background.**

Bowman's qualifications as set forth in Appendix A to AL 2651-E and a biographical attachment, indicate that he retired as Chief Investment Officer of CALPERS in February 1994 and thereafter worked as a pension investment consultant. He presently serves as a director of the Forward Funds, the Brandes Funds, the Sycuan Funds, the Wilshire Mutual Funds, the RREEF American I REIT, the RREEF American III REIT, and a Trustee of the PCG Equity Fund.

Bowman has also served as the interim Treasurer to the Regents of the University of California and as the Chief Investment Officer of the San Francisco Employees Retirement System. After serving in the Korean War as a fighter pilot, Mr. Bowman graduated from the University of Wisconsin with a B.S. in Geology. He is a licensed Chartered Financial Analyst.

Hulse's qualifications as set forth in Appendix B to AL 2651-E and a biographical attachment, indicate that he retired as Vice Chairman and Chief Financial Officer of Pacific Telesis Group in June 1992. Hulse has served in a variety of management positions with Bell System from 1958 to 1972, after which he spent two years with AT&T as marketing and sales director. In 1974 he was Vice President and Chief Executive Officer of Northwestern Bell in South Dakota and a year later in 1975 assumed the same position with Northwestern Bell in Minnesota. In 1979, Hulse became Senior Vice President of Northwestern Bell in Omaha. He was the Chief Financial Officer of Pacific Telephone in 1981 and Vice Chairman in 1983. He has held similar responsible positions elsewhere.

Hulse graduated from the University of South Dakota in 1955 majoring in Business Administration.

**Bowman and Hulse have no conflict of interest.**

The attachments to the Advice Letter also note that Bowman and Hulse have no current or past relationships with PG&E that could reasonably be perceived as creating a conflict with their acting independently in the Trusts' best interests.

**Bowman's Term Ended a Year Ago**

Bowman's second term ended on May 1, 2004 yet he continued to participate as a member of the Trust Committee. The expiration of Bowman's term went unnoticed by PG&E until PG&E applied for Bowman's extension via this advice letter. PG&E requests Bowman's term be approved retroactively back to May 2004. Because Bowman has in effect already served a year into his proposed term, Energy Division recommends that the Commission approve a four-year term for Bowman starting on May 2, 2005. The Energy Division also recommends PG&E to establish a more effective tracking system so that its nominations for the Committee's Trust membership can be submitted in a timely manner and oversights can be avoided in the future.

**Bowman and Hulse are suitable for the nominated position.**

The Energy Division believes that Messrs Bowman and Hulse have demonstrated independence, competence and integrity during their services on the Committee. As non-affiliated Committee members, they will be able to represent the ratepayers and the public who are intended to be the ultimate beneficiaries of the Trusts. The Energy Division recommends approval of Hulse for an additional five-year term starting on May 2, 2005 and approval of Bowman for an additional four-year term also starting on May 2, 2005.

**Current compensation arrangements are adequate.**

The Energy Division notes that the Trust Agreements in Article 3.06 state

Each committee member who is not an employee, officer, director, or otherwise an agent of the Company shall be entitled to reasonable fees and/or compensation for their services hereunder. At the time a nominee's name is furnished to the CPUC, the company shall furnish to the CPUC a statement in writing, setting forth all proposed fee and/or compensation arrangements with such nominees. The fee and/or compensation arrangements shall be subject to approval of the CPUC.

PG&E, in its AL 2651-E proposes to continue the current fee arrangements for its outside Committee members approved in D.88-04-072 and subsequently found reasonable in D.93-04-060, D.95-05-022, and D.97-12-047, i.e., \$8,000 per year and \$500 per meeting. Having been found reasonable by the Commission previously, the Energy Division does not object to the current fee arrangement at this time.

## **COMMENTS**

This is an uncontested matter in which the resolution grants the relief requested, albeit with one modification. Accordingly, pursuant to PU Code Section 311(g) (2), the otherwise applicable 30-day period for public review and comment is being waived.

## **FINDINGS**

1. PG&E filed AL 2651-E on April 15, 2005 requesting confirmation of DeWitt F. Bowman and John E. Hulse to its committees of nuclear decommissioning trust funds.
2. In D.87-05-062, the Commission required externally managed trust funds to finance the decommissioning of nuclear power plants.
3. The Trust Agreements authorized in Resolution E-3048 provide that a Committee shall direct and manage the Trusts and perform all duties, including the appointment of trustees and investment managers and the execution of whatever contracts, agreements, or other documents it deems necessary to manage and invest such assets.
4. The Trust Agreements require that PG&E nominate the outside members of the Committee and submit their names to the Commission for confirmation.
5. Messrs Bowman and Hulse are well qualified and willing to serve on the Committee.
6. PG&E should establish a more effective tracking system to submit timely renewals for the Trusts' Committee members.

7. The fee and compensation arrangements currently applicable to non-company Committee members were established in D.88-04-072 and subsequently found reasonable in D.93-04-060, D.95-05-022, and D.97-12-047, and should continue to apply to the appointment of Messrs Bowman and Hulse.
8. There is no opposition to AL 2651-E.
9. The nominations for Bowman and Hulse should be approved. Bowman's term should be for four years and Hulse's term for five years, both starting on May 2, 2005.

**THEREFORE IT IS ORDERED THAT:**

1. The nomination of DeWitt F. Bowman to serve as a non-company member of Pacific Gas and Electric Company's [PG&E] Nuclear Facilities Decommissioning Master Trusts Committee for a term of **four** years starting on May 2, 2005 and that of John E. Hulse for a term of **five** years starting on May 2, 2005 is hereby approved.
2. The current fee and compensation arrangements for non-company members of PG&E 's Nuclear Facilities Decommissioning Master Trusts Committee as approved in Decision 88-04-072 and subsequently found reasonable in Decision [D.] 93-04-060, D.95-05-022 and D.97-12-047 shall continue until revised through the process set forth in the Trust Agreement.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on May 26, 2005; the following Commissioners voting favorably thereon:

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STEVE LARSON  
Executive Director